

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
VS.	:	NO.
	:	
OLIN CORPORATION,	:	
SOUTH CENTRAL CONNECTICUT	:	
REGIONAL WATER AUTHORITY,	:	
TOWN OF HAMDEN, CONNECTICUT and	:	
STATE OF CONNECTICUT BOARD	:	
OF EDUCATION,	:	
	:	
Defendants.	:	

COMPLAINT

The United States of America ("United States"), by authority of the Attorney General of the United States and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

1. This is a civil action brought pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607 *et seq.* The United States seeks to recover costs that have been or will be incurred in connection with the release or threatened release of hazardous substances at or from two sites known as the Rosem Removal Superfund Site ("Rosem Site") and the Bryden & Morse

Removal Superfund Site (“Bryden & Morse Site”) in Hamden, New Haven County, Connecticut (together the “Sites”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. §§ 9607(a) and 9613(b).

3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b), as the actual or threatened release of hazardous substances that gives rise to the claim occurred in this judicial district.

DEFENDANTS

4. The Defendant Olin Corporation (“Olin”) is a corporation organized and existing under the laws of the State of Virginia. Its principal place of business is located in Norwalk, Connecticut.

5. The Defendant South Central Regional Water Authority (“Water Authority”) is a non-profit organization that is organized under the laws of the State of Connecticut that supplies water to twelve cities and towns in the New Haven, Connecticut area.

6. The Defendant State of Connecticut Board of Education (“Board of Education”) is an entity organized under the laws of the State of Connecticut.

7. The Defendant Town of Hamden, Connecticut (“Town”) is a town organized under the laws of the State of Connecticut.

SITE DESCRIPTION AND FACTUAL BACKGROUND

8. The Rosem Site consists of residential properties situated on Morse Street in Hamden, Connecticut. The properties are identified as Lots # 55, 58.1 and 59.1 of Map 2126 at

the Hamden Assessor's office. The Rosem Site is bounded: to the north by Hamden Middle School and playing fields; to the south by Morse Street; to the east by the Hamden Community Center; and to the west by a residential property.

9. During the period from approximately 1931 to 1970, Olin manufactured, *inter alia*, ammunition, firearms, dry cell batteries, flashlights, ice and roller skates, pocket knives, radiators and radiator tubes, and metal parts fabricated from brass and other nonferrous alloys, at its New Haven facility. The raw materials associated with Olin's manufacturing operations there included numerous hazardous substances, including but not limited to lead. Wastes generated from Olin's manufacturing operations likely included coal wastes and/or coal ash, batteries, residual gunpowder, and fifty-five (55) gallon drums of material containing industrial waste. Further, Olin disposed of such waste and materials, including hazardous substances, at and/or near the Rosem Site, pursuant to an agreement with the New Haven Water Company providing for such disposal.

10. The New Haven Water Company, predecessor to the South Central Connecticut Water Authority (the "Water Authority"), acquired the Hamden Middle School property in approximately 1900. At the time the Water Authority acquired the Hamden Middle School property, the property included lots located at 249-51 and 253-55 Morse Street (the "Morse Street lots"), which are part of the Rosem Site. Therefore, the Water Authority is a former owner and/or operator of the Rosem Site at the time of disposal of hazardous substances at this Site.

11. In 1947, the Water Authority conveyed the Hamden Middle School property to the Town, including the Rosem Site portion of the property (i.e., the Morse Street lots). The Town conveyed the Rosem Site portion of its property to the Connecticut Board of Education in 1950,

but received this property back in 1954. In 1990 the Town conveyed the two Morse Street lots to the Hamden Housing Authority. The Town is therefore a former owner of the Rosem Site at the time of disposal of hazardous substances at this Site.

12. The Board of Education, which acquired the Rosem Site portion of the Hamden Middle School property in 1950, and owned it until 1954, is, subject to a reasonable opportunity for further investigation and discovery, a former owner of the Rosem Site at the time of disposal of hazardous substances.

13. The Bryden & Morse Site consists of individual residential properties situated on Bryden Terrace, Winchester Avenue, Marlboro Street and Morse Street in Hamden, Connecticut. The properties are identified as Lots # 120, 181, 184, 249, 250, 255, 316, 350 and 351 of Map 2127 at the Hamden Assessor's office. The Bryden & Morse Site area is bounded: to the north by Rochford Field and annex; to the west by Newhall Street and the Hamden Middle School; and to the south and east by more residential areas.

14. Subject to the reasonable opportunity for further investigation and discovery, the Town is the past operator of public dumps within the area of the Bryden & Morse Site, known at various points as the Mill Rock Street Dump, Wadsworth Dump and Winchester Avenue Dump, at the time of disposal of hazardous substances at the Site.

15. Subject to the reasonably opportunity for further investigation and discovery, Olin disposed of hazardous substances at or near the Bryden & Morse Site.

16. Since approximately 1979, EPA, the Connecticut Department of Environmental Protection ("CTDEP"), and the Town have conducted several environmental investigations in the vicinity of the Rosem Site. Soil samples collected on the Hamden Middle School property have

revealed elevated levels of metals including lead, arsenic, mercury, and chromium in the soil, which are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

17. In 2001, EPA conducted a site investigation at and in the vicinity of the Sites and subsequently excavated and removed soils contaminated with hazardous substances. High levels of lead and polycyclic aromatic hydrocarbons ("PAHs"), as well as arsenic and semi-volatile organic compounds ("SVOCs"), which are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), were found.

18. There was a "release" or "threatened release" of a hazardous substance at or from the Sites within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

19. The actions taken by the United States in connection with the Sites constitute "response" actions within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25). The United States has incurred over \$1,455,000 in unreimbursed response costs at the Site.

CLAIM FOR RELIEF

20. Paragraphs 1 through 19 are realleged and incorporated herein by reference.

21. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

- (1) the owner or operator of a vessel or facility;
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
- (3) any person who by contract, agreement, or otherwise arranged for

disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at a facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances, and

- (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such persons, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for --

- (A) all costs of removal or remedial action incurred by the United States Government or a State . . . not inconsistent with the national contingency plan; . . .

21. The Town is liable, pursuant to Section 107(a)(2), 42 U.S.C. § 9607(a)(2), as a past owner of the Rosem Site at the time of disposal. Subject to the reasonable opportunity for further investigation and discovery, the Town is liable, pursuant to Section 107(a)(2), 42 U.S.C. § 9607(a)(2), as the past operator of the Bryden & Morse Site at the time of disposal of hazardous substances.

22. The Water Authority and the Board of Education are liable, pursuant to Section 107(a)(2), 42 U.S.C. § 9607(a)(2), as the past owners and/or operators of the Rosem Site at the time of disposal of hazardous substances.

23. Olin Corporation is liable, pursuant to Section 107(a)(3), 42 U.S.C. § 9607(a)(3), as an arranger for disposal of hazardous substances at the Rosem Site and/or the Bryden & Morse Site.

24. Each of the Defendants is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

25. The Rosem Site and the Bryden & Morse Site are each a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

26. The response costs incurred by the United States in connection with the Sites were not inconsistent with the National Contingency Plan ("NCP"), which was promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and is codified at 40 C.F.R. Part 300, *et seq.*

27. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the Defendants are jointly and severally liable to the United States for costs incurred or to be incurred by the United States in connection with the Rosem and/or Bryden and Morse Sites, for which the United States seeks judgment, including prejudgment interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, United States of America, respectfully prays that this Court:

1. Enter judgment against each of the Defendants, jointly and severally, for response costs incurred or to be incurred by the United States in connection with the Rosem and/or Bryden & Morse Sites, together with interest thereon; and

2. Award such other relief as this Court deems just and proper.

Respectfully submitted,

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